

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1646 of 2008

M.Deivasigamani

... Appellant/Petitioner

..Vs..

1.S.Chinnathambi

2.The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore Dn.II)Ltd.,
Chennimalai Road,
Erode- 1.

...Respondents/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount awarded in Judgment and decree dated 21.01.2008 made in M.C.O.P.No.152 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District Court / Fast Track Court No.I Erode.

For Appellant : Mr.N.Manokaran

For Respondents: Mr.K.J.Sivakumar for R2
No appearance for R1.

J U D G M E N T

The instant appeal has been filed by the Appellant/claimant challenging the quantum of compensation fixed under the Award dated 21.01.2008 passed by the Motor Accident Claims Tribunal (Additional District Court, Fast Track Court, Erode) in M.C.O.P.No.152 of 2007.

The brief facts leading to the filing of the instant appeal are as follows:

2. The appellant sustained injuries on account of the accident which happened on 15.03.2002 at about 5:45 P.M. caused by a bus bearing Registration No.TN.33-N-1257 owned by the second respondent/Transport Corporation. The Appellant/claimant preferred a claim before the Motor Accident Claims Tribunal and

the Tribunal by its judgment and decree dated 21.01.2008 in M.C.O.P.No.152 of 2007 directed the second respondent/Transport Corporation to pay the appellant a sum of Rs.1,63,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization and the Tribunal has also awarded a sum of Rs.6,260/- as cost.

3. Aggrieved by the award dated 21.01.2008 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.152/2007, the instant appeal has been filed by the appellant/claimant seeking enhancement of compensation.

4. Heard Mr.N.Manokaran learned counsel for the appellant and Mr.K.J.Sivakumar learned counsel for the second respondent.

5. According to the learned counsel for the appellant, the Tribunal failed to take note of the fact that the appellant was an Agriculturist and a Milk vendor and earning a sum of Rs.6000/- per month. Further, the learned counsel for the appellant would contend that the Tribunal did not take note of the fact that the appellant took treatment as an inpatient for 3 days at Maruthi Hospital and he also took treatment at Ganga Hospital, Coimbatore for a period of 1 month i.e. between 18.03.2002 and 19.04.2002. According to the learned counsel for the appellant, the appellant sustained grievous injuries and therefore, the compensation awarded to the appellant is meagre and inadequate.

6. The learned counsel for the Appellant drew the attention of this Court to the findings of the Tribunal and submitted that as a Milk vendor and an Agriculturist, no documents to prove the monthly income of the appellant could have been produced before the tribunal. According to him, the tribunal has given an erroneous finding that the appellant has not established that he was earning a monthly income of Rs.6000/- out of the Milk vending business.

7. The learned counsel for the Appellant also submitted that as seen from the findings, the tribunal has arbitrarily fixed the medical expenses incurred by the appellant at Rs.1,00,000/- without any basis, even though the appellant had produced medical bills totally amounting to Rs.1,14,060/- which were marked as exhibits P8 to P11 before the tribunal. Further, the learned counsel for the Appellant would contend that considering the nature of injuries, the tribunal has awarded a meagre and inadequate amount as compensation towards pain and suffering, transportation cost and loss of income.

8. Per contra the learned counsel for the second respondent/Transport Corporation submits that the compensation

awarded by the tribunal is a just and reasonable one and the Tribunal, only after considering the oral and documentary evidence has passed the impugned award.

9. This Court, after having considered the materials available on record and after perusing and examining the impugned award and after hearing the submissions of the respective counsels, observes the following:

a. As rightly held by the tribunal, no document has been filed by the appellant to establish that the appellant was earning a monthly income of Rs.6000/- in his Milk vending business.

b. No document has been filed by the appellant to establish that enhanced compensation is payable to the appellant towards transportation cost, pain and suffering and loss of income.

c. The tribunal has awarded Rs.1,00,000/- towards reimbursement of medical cost incurred by the appellant on account of injuries suffered by him which according to this Court is an arbitrary sum, since the appellant has produced medical bills totally amounting to Rs.1,14,060/- before the tribunal. This is the only infirmity under the impugned award.

d. Insofar as the other heads under which compensation was awarded to the appellant are concerned, there is no infirmity.

10. In view of the above observations recorded by this Court, the award passed by the tribunal is modified by enhancing the award amount to Rs.1,77,060/- instead of Rs.1,63,000/- and the second respondent/Transport Corporation is directed to deposit the enhanced amount of Rs.14,060/- together with interest at the rate of 7.5% per annum on the enhanced amount from the date of claim till the date of realization to the credit of M.C.O.P.No.152 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District Court / Fast Track Court No.I Erode, within a period of four weeks from the date of receipt of a copy of the order. The appellant is permitted to withdraw the amount lying to the credit of M.C.O.P.No.152 of 2007 along with accrued interest together with the enhanced amount by filing an appropriate application.

11. Accordingly, the Civil Miscellaneous Appeal is partly allowed without costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sni/nl

To

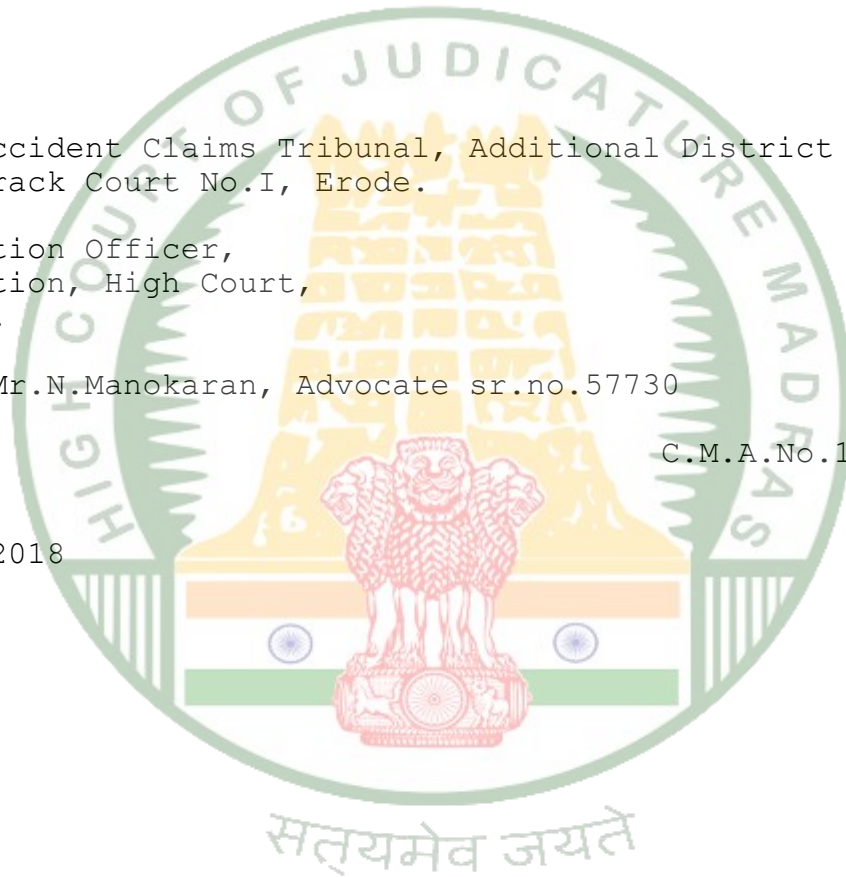
1.Motor Accident Claims Tribunal, Additional District Court,
Fast Track Court No.I, Erode.

2.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.N.Manokaran, Advocate sr.no.57730

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